

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
SEVENTH REGION**

**MICHIGAN CONSOLIDATED GAS COMPANY**

**Employer**

**and**

**CASE 7-UC-553**

**GAS WORKERS LOCAL NO. 80, SERVICE  
EMPLOYEES INTERNATIONAL UNION, AFL-CIO**

**Petitioner**

**APPEARANCES:**

**Martin Jay Galvin, Attorney, of Detroit, Michigan for the Employer  
L. Rodger Webb, Attorney, of Detroit, Michigan for the Petitioner**

**DECISION AND ORDER**

Upon a petition duly filed under Section 9(b) of the National Labor Relations Act, as amended, hereinafter referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,<sup>1</sup> the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

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<sup>1</sup> The Employer and Petitioner filed briefs, which were carefully considered.

3. The Petitioner (herein sometimes the Union) seeks to clarify its existing contractual unit<sup>2</sup> to include four unrepresented drafting employees. The Employer asserts that such accretion is inappropriate in that the at-issue classification has existed for years, and has been historically excluded by the parties. The Petitioner maintains that recent changes in job duties and supervision mandates their inclusion in the unit represented by Petitioner.

The Employer, with main offices in Detroit, Michigan, is engaged in the delivery of natural gas to residential and commercial consumers in Michigan. The Employer currently employs 40 drafting employees within the engineering construction group at various locations. About 19 of the drafting employees work at the Noble Building on Hobson Street in Detroit, and are part of the Petitioner's bargaining unit. About nine of the drafting employees work in Grand Rapids and are part of a bargaining unit represented by a different union. One draftsman works in Big Rapids, Michigan, and is unrepresented. Eleven drafting employees work in the Guardian Building in Detroit and are unrepresented. The Petitioner seeks to represent 4 of the 11 unrepresented Guardian Building drafting employees.

Drafting employees in the engineering construction group are principally charged with assembling and maintaining maps and drawings of the Employer's facilities, transmission, and distribution system. The engineering construction group, managed by Director of Engineering Construction Leonard B. Woods, is subdivided into departments with department managers as follows: transmission design managed by Bill Soules; environmental engineering and laboratory services managed by Abed Houssari; survey, land and drafting managed by Jerry Beland; codes and standards managed by Leif Jensen; distribution design managed by Tim Miller; MARS (Mapping and Automated Record System) and drafting managed by John Middlestead; corrosion with no current manager; and main replacement managed by Bill McKinney.<sup>3</sup>

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<sup>2</sup> The Petitioner and Employer have executed numerous collective bargaining agreements over the years, the current one being a three-year contract effective December 3, 2000. The parties agree that certain drafters are already members of the existing unit and are covered by the recognition clause of the contract, which is as follows: "The Company agrees to recognize the Union as the collective bargaining agency for all of its employees classified under the Classification of Work and Wages, forming a part hereof, in the Customer Service Department, Distribution Operations, Meter Reading, Metering, Property Operation and Maintenance, Property Maintenance Operations, Field Service Operations, Stock and Transportation departments or Divisions of its Detroit District. ..."

<sup>3</sup> The parties stipulated, and I conclude, that Leonard Woods, Bill Soules, Abed Houssari, Jerry Beland, Leif Jensen, Tim Miller, John Middlestead, and Bill McKinney possess various indicia of supervisory authority and are supervisors within the meaning of the Act.

Soules supervises six drafters who work on the 24<sup>th</sup> and 25<sup>th</sup> floor of the Guardian Building. These drafters utilize personal computers to draft or draw maps of transmission pipelines all over Michigan. None of these drafters are currently part of a bargaining unit, and the Petitioner does not seek their inclusion.

Beland supervises three lead drafters and six drafters who work at the Grand Rapids facility. These drafters create and maintain maps of the gas distribution network in the Grand Rapids area, utilizing the new MARS software computerized mapping and record-keeping system. All of these drafters are part of a bargaining unit represented by a union identified as Local 132. Beland also manages draftsman L. Noyes, who uses a personal computer to draw maps of the distribution network in areas of outstate Michigan. Noyes is not part of a bargaining unit.

Miller supervises three senior drafters, represented by Petitioner, who work at the Noble Building on Hobson Street in Detroit. These drafters principally undertake facility drawings, which are specific maps of piping arrangements and stations at a customer's location.

Middlestead supervises five senior drafters and four drafters who are part of Petitioner's bargaining unit, and four unrepresented drafters who are the subject of the instant petition. The Union-represented senior drafters and drafters all work at the Noble Building. The petitioned-for drafters work on the 24<sup>th</sup> floor of the Guardian Building in downtown Detroit. Three of the four non-unit drafters have worked at this job and location for over 10 years, while the fourth non-unit drafter has worked at this job and location for 6 years. The Union-represented drafters principally draw and maintain maps of the Employer's distribution system for southeast Michigan. The petitioned-for drafters principally draw and maintain maps of the Employer's distribution system for the northcentral area of Michigan, and have been performing this function since about 1989. There is little or no interchange between the unit and non-unit drafters.

McKinney supervises three senior drafters and four drafters who are part of the Petitioner's bargaining unit and work at the Noble Building. These drafters draw maps for main replacement. Woods directly supervises one drafter, B. Noble, who works on the 24<sup>th</sup> Floor of the Guardian Building. Noble is not part of the bargaining unit, and Petitioner does not seek Noble's inclusion in the unit.

The above set-forth organization of the engineering construction group came about in January 2001, and was occasioned by the resignation of the then-supervisor in Grand Rapids. Beland, who had previously been located in Detroit, was moved to Grand Rapids and assumed supervision of the Grand Rapids drafters, among other employees. The four petitioned-for drafters were moved

from Beland's supervision to Middlestead's. Three more non-represented drafters who worked for Beland were transferred to Soule's supervision. Thus, prior to the reorganization, Beland supervised seven unrepresented drafters and Middlestead supervised nine unit drafters. After the reorganization, Middlestead still supervises nine unit drafters, but also supervises four non-unit drafters. Middlestead's unit drafters all work in the Noble Building, while the petitioned-for drafters all work on the 24<sup>th</sup> Floor of the Guardian Building. Middlestead maintains offices in both locations. Soules supervises six non-unit drafters, all in the Guardian Building, and none being sought by the Petitioner. None of the drafters, unit or non-unit, were physically moved, even though their supervision was changed in January 2001. Despite the reorganization, the petitioned-for drafters remained in the same offices in the Guardian Building and Petitioner's unit drafters all remained at the Noble Building.

All of the drafters, unit and non-unit, share similar working conditions; they all work in an office area, keep track of their own work hours, work the same hours, and share similar benefits, although exact terms and conditions of employment including wages for unit drafters are set forth in a collective bargaining agreement, while non-unit terms and conditions of employment are set by the Employer. The wages of unit drafters are slightly higher than those of the non-unit drafters. Educational and training requirements for the drafter position, whether unit or non-unit, are the same. All of the drafters create maps, but the Middlestead-supervised unit drafters only map southeast Michigan, while the Middlestead-supervised, petitioned-for drafters only map northcentral Michigan.

Middlestead is also the manager of the MARS and conversion project. Unit drafters in the Noble Building, supervised by Middlestead began to use the MARS software in 1986 in a process of converting much of the mapping from pen and mylar to digital. These unit drafters, however, have worked only on the southeast Michigan territory. Non-unit drafters began using computers for mapping in 1995, but were not using the technologically sophisticated MARS software.

During the period 1986-1989 unit drafters represented by Petitioner were utilized in the "scrubbing"<sup>4</sup> process for a pilot MARS conversion program in the Ann Arbor Township area of southeast Michigan. In 1989, unit drafters began the conversion process for much of the southeastern Michigan area. In 1992, Grand Rapids drafters began the process of converting their records and maps to digital form via the MARS software. In 1999, the petitioned-for, non-unit drafters began training for the MARS conversion process for northcentral Michigan and began some actual MARS-related conversion work in 2000. Unit drafters perform the

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<sup>4</sup> Scrubbing involves cleaning up the ink/mylar maps and records so as to assure accurate data to enter into the MARS software.

pre-conversion scrubbing and post-conversion quality assurance for the southeastern Michigan area. The petitioned-for drafters perform only post-conversion quality assurance for the northcentral Michigan area, while actual digital conversion and scrubbing are performed by an outside vendor. The first actual posting<sup>5</sup> of a MARS map for the initial pilot area of the northcentral region took place in June 2001.

While the petitioned-for drafters now spend most of their time performing quality assurance on MARS conversions, they also do quality assurance on vendor prepared ink/mylar maps and drawings. Three of the unit drafters under Tim Miller's supervision do no MARS conversion work, but are assigned primarily valve and regulator drawings. Seven of the unit drafters under Manager Bill McKinney primarily map public improvement and main renewals, and perform no MARS conversion unless assigned such for overtime work.

Thus, the only non-unit drafters performing MARS-related conversion work are the four petitioned-for drafters reporting to supervisor Middlestead. The unit drafters assigned MARS-related conversion work are also supervised by Middlestead, albeit at Noble, rather than the Guardian Building.

The Petitioner contends that the four petitioned-for drafters should be accreted into the existing unit represented by Petitioner because their primary function now is the quality assurance work performed as part of the MARS conversion process, which is the same work as performed by unit drafters, both of whom are supervised by Middlestead. Contrariwise, the Employer maintains that the dual unit/non-unit system of drafting employees has been in existence for many years under numerous collective bargaining contracts, and that an accretion petition is an inappropriate vehicle to add these long-time employees to a long-existing bargaining unit.

It is well established that the Board's unit clarification process is not appropriate for upsetting an agreement of a union and an employer or an established practice of such parties, concerning unit placement of various individuals or classifications, absent compelling circumstances. *Batesville Casket Co.*, 283 NLRB 795 (1987); *Union Electric Co.*, 217 NLRB 666 (1975). Further, the Board applies the accretion doctrine sparingly because accreted employees are not afforded the opportunity to vote in a self-determination election. *Passavant Retirement & Health Center*, 313 NLRB 1216, 1218 (1994); *Super Valu Stores*, 283 NLRB 134 (1987).

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<sup>5</sup> Posting is the final step of MARS conversion, and involves making the digital map and related data available to employees statewide who have appropriate computer access.

Here, the petitioned-for drafters have been historically excluded from the unit by the parties. Their work location has remained unchanged for years. Some of the petitioned-for drafters have been working in their position for as long as 20 years and have never been included in the unit. Indeed, there are other non-unit drafters, which Petitioner does not seek to accrete, working at the same location as the petitioned-for drafters, but there are no bargaining unit drafters working at that location. Further, while their MARS-related duties now take up a substantial part of their work-time, they are still basically drafting employees working on maps, except they are now mostly working with digital maps rather than ink and mylar maps. While it is true that the petitioned-for drafters now work under the same immediate supervision as some of the unit drafters, and that some of the unit and non-unit drafters spend much of their time working on the MARS conversion, these are not such compelling circumstances as would mandate accretion, especially in view of the other circumstances set forth above. See *Batesville Casket Co.*, 283 NLRB 795 (1987); *Rock-Tenn Co.*, 274 NLRB 772 (1985).

Accordingly, based upon the record as a whole, I conclude that it would be inappropriate to clarify the unit as sought by the instant petition.

### **ORDER**

**IT IS HEREBY ORDERED** that the instant unit clarification petition be, and it hereby is, dismissed.<sup>6</sup>

Dated at Detroit, Michigan, this 23rd day of October, 2001.

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William C. Schaub, Jr., Regional Director  
National Labor Relations Board, Seventh Region  
Patrick V. McNamara Federal Building  
477 Michigan Avenue, Room 300  
Detroit, Michigan 49226

385-7533-2020-4100

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<sup>6</sup> Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the **National Labor Relations Board**, addressed to the **Executive Secretary, 1099 14th Street NW, Washington, DC 20570-0001**. This request must be received by the Board in Washington by **November 6, 2001**.